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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, NW
Washington, DC 20037-3213

EXAMINER

LAU, TUNG S

ART UNIT	PAPER NUMBER
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2863

DATE MAILED: 02/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/038,585

Applicant(s)

CHETAY ET AL.

Examiner

Tung S. Lau

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 15-32 are rejected under 35 U.S.C. 102(b) as being anticipated by

Delatorre (U.S. Patent 4,924,701).

Regarding claim 15:

Delatorre discloses a method of monitoring the proportion of a component in a gaseous mixture, said gaseous mixture having at least two components and being contained in an electrical switchgear enclosure (Col. 1-2, Lines 44-40, fig. 13, 14), said method comprising the steps of: a) measuring the pressure, the temperature, and the density of the gas mixture contained in the electrical switchgear enclosure by means of sensors mounted on said enclosure (Col. 3-4, Lines 45-24, fig. 13, 14), b) determining said proportion by processing the measured values of pressure, temperature and density in a data-processing unit (Col. 1-2, Lines 44-40, Col. 3-4, Lines 45-24, fig. 13, 14) wherein step a) is carried out without tapping said gas mixture (Col. 1-2, Lines 44-40, Col. 3-4, Lines 45-24).

Regarding claim 28:

Delatorre discloses electrical switchgear provided with an enclosure containing

a gaseous mixture of at least two dielectric gases under pressure, wherein the proportion of one of these dielectric gases in the mixture (Col. 1-2, Lines 44-40, fig. 13, 14) is determined by implementing a method comprising the steps of: a) measuring the pressure, the temperature, and the density of the gas mixture contained in the electrical switchgear enclosure by means of sensors mounted on said enclosure (Col. 3-4, Lines 45-24, fig. 13, 14), b) determining said proportion by processing the measured values of pressure, temperature and density in a data-processing unit (Col. 1-2, Lines 44-40, Col. 3-4, Lines 45-24, fig. 13, 14), wherein step a) is carried out without tapping said gas mixture (Col. 1-2, Lines 44-40, Col. 3-4, Lines 45-24), and wherein the gas mixture is made up of two components constituted by N₂ and SF₆ (Col. 8, Lines 9-19).

Regarding claim 29:

Delatorre discloses a method of monitoring the proportion of a component in a gaseous mixture, said gaseous mixture having at least two components and being contained in an electrical switchgear enclosure (Col. 1-2, Lines 44-40, fig. 13, 14), said method comprising the steps of: a) measuring the pressure, the temperature, and the density of the gas mixture contained in the electrical switchgear enclosure by means of sensors mounted on said enclosure (Col. 3-4, Lines 45-24, fig. 13, 14); b) determining said proportion by processing the measured values of pressure, temperature and density in a data-processing unit (Col. 3-4, Lines 45-24, fig. 13, 14), and c) running algorithms in the data-processing unit for correcting errors and drift specific to said sensors (Col. 3-4,

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Lines 45-24, fig. 13, 14, Col. 13, Lines 30-64), wherein step a) is carried out without tapping said gas mixture (Col. 1-2, Lines 44-40, Col. 3-4, Lines 45-24).

Regarding claim 30:

Delatorre discloses a system for monitoring the proportion of a component in a gaseous mixture, said gaseous mixture having at least two components and being contained in an electrical switchgear enclosure (Col. 1-2, Lines 44-40, fig. 13, 14), said system comprising: at least one sensor mounted on said enclosure for measuring the pressure (Col. 3-4, Lines 45-24, fig. 13, 14), the temperature, and the density of the gas mixture contained in the electrical switchgear enclosure (Col. 3-4, Lines 45-24, fig. 13, 14), said sensor measuring without tapping the said gas mixture (Col. 1-2, Lines 44-40, Col. 3-4, Lines 45-24), and a data processing unit for processing the measured values of pressure, temperature and density (Col. 3-4, Lines 45-24, fig. 13, 14).

Regarding claim 31:

Delatorre discloses a system for monitoring the proportion of a component in a gaseous mixture, said gaseous mixture having at least two components and being contained in an electrical switchgear enclosure (Col. 1-2, Lines 44-40, fig. 13, 14), said system comprising: first means mounted on said enclosure for measuring the pressure, the temperature, and the density of the gas mixture contained in the electrical switchgear enclosure (Col. 1-2, Lines 44-40, Col. 3-4, Lines 45-24, fig. 13, 14), said first means measuring without tapping said gas mixture (Col. 1-2, Lines 44-40, Col. 3-4, Lines 45-24), and second means for

processing the measured values of pressure, temperature and density (Col. 1-2, Lines 44-40, Col. 3-4, Lines 45-24, Col. 13, Lines 30-64).

Regarding claims 16, 26, Delatorre further discloses a high voltage switchgear (Col. 18, Lines 1-23); Regarding claims 17, 27, Delatorre further discloses a gastight enclosure (fig. 3, unit 107); Regarding claim 18, Delatorre further discloses a programmed to solve thermodynamic state equation of components (Col. 4-5, Lines 25-65); Regarding claim 19, Delatorre further discloses data processing store data table in a memory, said data table containing a plurality of data items representative of various proportions of said component in correspondence with data items representative of various measurements of the pressure, of the temperature, and of the density of the gas mixture containing said component (fig. 13, unit 166, 165, 167, Col. 4-7, Lines 66-7); Regarding claim 20, Delatorre further discloses vibrating blade sensor (Col. 16, Lines 24-34); Regarding claim 21, Delatorre further discloses the density is measured by capacitor whose capacitance is a function of the permittivity of the gas mixture (Col. 3-4, Lines 45-24); Regarding claim 22, Delatorre further discloses is measured by an interferometer (Col. 3-4, Lines 45-24, fig. 1b); Regarding claim 23, Delatorre further discloses a micro computer (Col. 4-7, Lines 47-6, fig. 13, unit 166, 165); Regarding claim 24, Delatorre further discloses a micro computer a microncontroller (fig. 13, unit 165); Regarding claim 25, Delatorre further discloses at least two gases (Col. 7, Lines 9-39); Regarding claim 32, Delatorre

further discloses mixture acts as an insulation in the electrical switchgear (Col. 5-6, Lines 3-65).

Response to Arguments

2. Applicant's arguments filed 01/30/2006 have been fully considered but they are not persuasive, and the finality of this action is proper (See MPEP 706.07).

A. Applicant broadly alleged in the arguments that the examiner fails to comply with 37 CFR 1.104© (2) which states ' .. the pertinence of each reference, if not apparent must be clearly explained and each rejected claim specified'. The examiner believe the teaching of Delatorre cited in the above single 102 (b) rejection is pertinence of each reference, is clearly explained and each rejected claim specified in every independent and dependent rejected claims above. The applicants reply not only fail to point out what is not clear, but also fail to point out what/where are/is the clear error(s) of the examiner (See mpep 37 CFR 1.111(b)). Remind to the applicants that in imposing a rejection under 35 U.S.C. 102, the Examiner is required to point to "page and line" wherein an applied reference is perceived to identically disclose each feature of a claimed invention. In re Rijckaer, 9 F3d 1531, 28 USPQ2d 1955 (Fed. Cir. 1993); Lindemann Maschinenfabrik Gmbh v. American Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481 (Fed. Cir. 1984).

- B. Applicant continue to argue that the prior art fails to teach 'a determination as to a proportion of a component in a gaseous mixture' In claim 1. Reminds to the applicants that during patent examination, the pending claims must be "given the

broadest reasonable interpretation consistent with the specification." Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969). USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Delatorre clearly discloses a determination as to a proportion of a component in a gaseous mixture' in Col. 3-4, Lines 45-47, here Delatorre discloses the proportion of a component in a gaseous mixture varies from 0.185% depend on temperature factor (Col. 4, Lines 26-39).

- C. Applicant continue to argue that the prior art fails to teach 'a step of measuring the density of any fluid' In claim 15. Delatorre clearly discloses 'a step of measuring the density of any fluid' in Col. 4, Lines 26-40, here Delatorre talks about the density being measure is 1/540 or 0.185% of the gases and is temperature dependent. Reminds to the applicants that the use of patents as references is not limited to what the patentees describe as their own inventions or to the problems with which they are concerned. They are part of the literature of the art, relevant for all they contain. *In re Heck*, 699 F.2d 1331, 1332-33, 216

USPQ 1038, 1039 (Fed. Cir. 1983) (quoting *In re Lemelson*, 397 F.2d 1006, 1009, 158 USPQ 275, 277 (CCPA 1968)). The examiner believe the teaching of Delatorre expressly anticipates and teach every element of the claim, A claim is anticipated only if each and every elements as set forth in the claim is found, either expressly or inherently, in a single prior art reference, See *Verdegaal Bros. V. union Oil Co. of California*, 814F2d 628,631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987), and that The arguments of counsel cannot take the place of evidence in the record. *In re Schulze*, 346 F.2d 600, 602, 145 USPQ 716, 718 (CCPA 1965).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tung S Lau whose telephone number is 571-272-2274. The examiner can normally be reached on M-F 9-5:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on 571-272-2269. The fax phone numbers for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TL


MICHAEL NGHIEM
PRIMARY EXAMINER